

November 19, 1954

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CONCORD, N.H.

Mr. Frank R. Young  
Town Manager  
Ashland, New Hampshire

Dear Mr. Young:

Your inquiry of November 15, 1954, as to whether a clergyman who was a conscientious objector in World War II and who spent time in a civilian labor camp in lieu of military service properly may be appointed to the town's advisory board in civil defense matters involves questions of policy as well as of law. Therefore part of your reply must come from those charged with the administration of the Civil Defense Act.

Under the Selective Training and Service Act of 1940, now superseded by the Universal Military Training and Service Act, 50 U.S.C.A. App., §. 455 (21 - 23), bona fide conscientious objectors were exempted from combatant duty by the Congress. In lieu thereof they were made liable for work of national importance in aid of military service under civilian direction. In other words, the law in force during World War II did not exempt such conscientious objectors from the operation of the Selective Training and Service Act but such persons were subject to draft the same as others, except that they were exempt from military service but might be called up for work which, under civilian direction, would assist in the preservation of the nation by winning the war.

To be entitled to the conscientious objector classification the registrant was required to establish that his objection to participation in war was due to religious training and belief and such objection was required to be a general scruple against war in any form and not merely an objection to participation in a particular war.

Under the present law any person "who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form" is subject to induction into the armed forces and is either inducted and assigned to noncombatant service or, if he is found to be conscientiously opposed to participation in noncombatant service, in lieu of such induction, is subject to be

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ordered by his local selective service board, subject to such regulation as the President may prescribe, to perform for 24 months "such civilian work contributing to the maintenance of the national health, safety or interest as the local board may deem appropriate."

Accordingly, under existing federal law, if the scruples of the subject permit participation in noncombatant service although conscientiously opposed to combatant service, his participation in a civil defense advisory capacity would not conflict necessarily, but might. the scruples of the individual oppose participation in noncombatant service, it may well be that the morale and administration of civil defense sufficiently requires of an advisory board member a whole-hearted and willingness to participate personally and actively in all phases of the civil defense program concerning which he undertakes to advise.

In determining this question it is well to bear two things in mind: 1. The two words conscientious objector constitute a single phrase and to place undue emphasis on the second word is to ignore the constitutional right of freedom of religion which gives meaning to the first word of the phrase.

2. A determination of whether a conscientious objector should serve on a civil defense advisory board should be based upon considerations of universal standards of personal participation, general morale and administration of civil defense organizations.

In short, a conscientious objector to participation in military service, combatant or noncombatant, is entitled to his conscientious beliefs but he is not entitled to appointment to a civil defense advisory board with exemption of differing military scruples the degree of personal dedication to and participation in the civil defense program required to maintain proper order conflicts with his beliefs.

Copy of this opinion has been furnished to Admiral C. Drinkmann, State Director of Civil Defense, whom I have requested to refer this matter to the state Civil Defense Advisory Council for the decision of policy based upon the foregoing considerations.

Very truly yours,

George F. Nelson  
Assistant Attorney General

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